

Remarks

Claims 5-7 and 12 have been withdrawn from consideration by the examiner. Claims 1-4 and 8-11 were considered by the examiner in the office action dated June 30, 2004. Claims 1 and 8 have been amended by this response.

I. Elections/Restrictions

Claims 5-7 and 12 were previously withdrawn by the examiner. However, claim 12 was dependent on claim 8 and claim 8 has been amended by this response and is respectfully submitted to be allowable. Claim 12 should be considered because upon allowance of a generic claim, applicant is entitled to consideration of claims to additional species written in dependent form. Applicant confirms the election of species II, claims 1-4 and 8-11, but respectfully asserts that claim 12 should be considered.

II. Drawings

Drawings showing corrections in red and replacement formal drawing sheets for Figs. 2B and 4A are enclosed.

III. Specification

The specification has been amended to correct the errors identified by the examiner on page 10. The numbers identified on pg. 9 are now shown in the replacement drawing of Fig. 2B which is enclosed.

IV. Rejection of claims 1-4 and 8-11 under 35 U.S.C. 102(b) based on Newell

Claims 1-4 and 8-11, as originally filed, were rejected under 35 U.S.C. 102(b) based on Newell. Claims 1 and 8 have been amended. Claim 1 now specifies:

An apparatus comprising:

- a door having a bottom surface;
- a pest control device comprising
 - a first member, which has a plurality of holes but is otherwise substantially solid;
 - a plurality of pins, each of which slides within one of the plurality of holes of the first member;
- wherein the first member is fixed to the door so that each of the plurality of pins is substantially perpendicular to the bottom surface of the door;
- wherein each of the plurality of pins can slide independently of each of the other pins of the plurality of pins;
- wherein each of the plurality of pins has an orientation that is substantially fixed and substantially parallel with respect to each of the other pins of the plurality of pins; and
- wherein an uneven ground surface can cause one of the plurality of pins to be pushed upwards a greater distance than another of the plurality of pins.

In the present application, in one or more embodiments, each of the plurality of pins can slide independently of each of the other pins of the plurality of pins. (Present application, see for example Fig. 3B which shows pins at different positions after sliding there from Fig. 2B positions). The ability of the pins to slide independently is important because it allows the device to adjust for different ground levels or surfaces to prevent pests from sneaking under a door such as a garage door. (Present application, Fig. 3B)

In Newell, two or more prongs “a” are fixed to a rod “D”. (Newell, Fig. 2). The prongs “a” can not slide independently of one another. I.e. if one prong slides, the other prong will slide also, and will slide the same distance. Thus Newell’s device cannot adjust for different ground levels or ground surfaces.

Claim 1 is submitted to be allowable over Newell for at least the foregoing reasons. Claims 2-4 are dependent on claim 1 and are also submitted to be allowable over Newell for at least the same reasons.

Claim 8 now specifies:

A method comprising the steps of
fixing a pest control device to a door having a bottom surface;
wherein the pest control device comprises
a first member, which has a plurality of holes but is otherwise
substantially solid;
and a plurality of pins, each of which slides within one of the plurality of
holes of the first member; and
wherein the first member is fixed to the door so that each of the plurality of pins
is substantially perpendicular to the bottom surface of the door;
wherein each of the plurality of pins can slide independently of each of the other
pins of the plurality of pins;
wherein each of the plurality of pins has an orientation that is substantially fixed
and substantially parallel with respect to each of the other pins of the plurality of pins; and
wherein an uneven ground surface can cause one of the plurality of pins to be
pushed upwards a greater distance than another of the plurality of pins.

Claim 8 is submitted to be allowable over Newell for similar reasons to claim 1. Claims 9-12 are dependent on claim 8 and are submitted to be allowable over Newell for at least similar reasons.

V. Rejection of claims 1-4 and 8-11 under 35 U.S.C. 102(b) based on Ewert

Claims 1-4 and 8-11, as originally filed, were rejected under 35 U.S.C. 102(b) based on Ewert. Claims 1 and 8 have been amended. Claim 1 now specifies:

An apparatus comprising:
a door having a bottom surface;
a pest control device comprising
a first member, which has a plurality of holes but is otherwise
substantially solid;
a plurality of pins, each of which slides within one of the plurality of holes
of the first member;
wherein the first member is fixed to the door so that each of the plurality of pins
is substantially perpendicular to the bottom surface of the door;
wherein each of the plurality of pins can slide independently of each of the other
pins of the plurality of pins;
wherein each of the plurality of pins has an orientation that is substantially fixed
and substantially parallel with respect to each of the other pins of the plurality of pins; and
wherein an uneven ground surface can cause one of the plurality of pins to be
pushed upwards a greater distance than another of the plurality of pins.

As previously stated, In the present application, in one or more embodiments, the pins can slide independently. In addition, an uneven ground surface can cause one of the plurality of pins to be pushed upwards a greater distance than another of the plurality of pins. (Present application, Fig. 3B).

Ewert discloses rods L extending from bar K. (Ewert Fig. 1, col. 2, Ins. 55-83). The rods L do not slide independently. One of the rods L cannot be pushed upwards a greater distance than another of the rods L by an uneven ground surface. Ewert also discloses rods L' extending from bar K'. The rods L' do not slide independently. One of the rods L' cannot be pushed upwards a greater distance than another of the rods L' by an uneven ground surface.

Claim 1 is submitted to be allowable over Ewert for at least the foregoing reasons. Claims 2-4 are dependent on claim 1 and are also submitted to be allowable over Ewert for at least the same reasons.

Claim 8 now specifies:

A method comprising the steps of

- fixing a pest control device to a door having a bottom surface;

- wherein the pest control device comprises

- a first member, which has a plurality of holes but is otherwise substantially solid;

- and a plurality of pins, each of which slides within one of the plurality of holes of the first member; and

- wherein the first member is fixed to the door so that each of the plurality of pins is substantially perpendicular to the bottom surface of the door;

- wherein each of the plurality of pins can slide independently of each of the other pins of the plurality of pins;

- wherein each of the plurality of pins has an orientation that is substantially fixed and substantially parallel with respect to each of the other pins of the plurality of pins; and

- wherein an uneven ground surface can cause one of the plurality of pins to be pushed upwards a greater distance than another of the plurality of pins.

Claim 8 is submitted to be allowable over Ewert for similar reasons to claim 1. Claims 9-12 are dependent on claim 8 and are submitted to be allowable over Ewert for at least similar

reasons.

VI. Rejection of Claims 1, 3, 8, and 10 under 35 U.S.C. 102 based on Neid

Claims 1, 3, 8, and 10, as originally filed, were rejected under 35 U.S.C. 102(b) based on Ewert. Claims 1 and 8 have been amended. Claim 1 now specifies:

An apparatus comprising:

- a door having a bottom surface;
- a pest control device comprising
 - a first member, which has a plurality of holes but is otherwise substantially solid;
 - a plurality of pins, each of which slides within one of the plurality of holes of the first member;
- wherein the first member is fixed to the door so that each of the plurality of pins is substantially perpendicular to the bottom surface of the door;
- wherein each of the plurality of pins can slide independently of each of the other pins of the plurality of pins;
- wherein each of the plurality of pins has an orientation that is substantially fixed and substantially parallel with respect to each of the other pins of the plurality of pins; and
- wherein an uneven ground surface can cause one of the plurality of pins to be pushed upwards a greater distance than another of the plurality of pins.

In one or more embodiments, of the present invention, each of the plurality of pins has an orientation that is substantially fixed and substantially parallel with respect to each of the other pins of the plurality of pins. (Present application, see Figs. 2B, 3B, 4B, 4C, 7B, and 8B).

Neid discloses bars 28 each of which can rotate, i.e. change orientation, with respect to each of the other of bars 28. (Neid, Figs. 1-3, col. 4, lns. 37-42). In addition it is unclear whether Neid's bars 28 can slide, or if they can slide it doesn't appear that they would slide to any great extent. (Neid, Figs. 1-3).

Claim 1 is submitted to be allowable over Neid for at least the foregoing reasons. Claims 2-4 are dependent on claim 1 and are also submitted to be allowable over Neid for at least the same reasons.

Claim 8 now specifies:

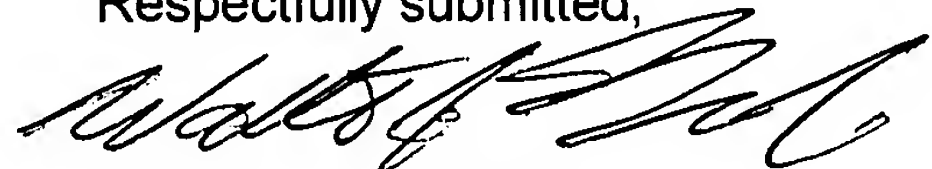
A method comprising the steps of
fixing a pest control device to a door having a bottom surface;
wherein the pest control device comprises
a first member, which has a plurality of holes but is otherwise
substantially solid;
and a plurality of pins, each of which slides within one of the plurality of
holes of the first member; and
wherein the first member is fixed to the door so that each of the plurality of pins
is substantially perpendicular to the bottom surface of the door;
wherein each of the plurality of pins can slide independently of each of the other
pins of the plurality of pins;
wherein each of the plurality of pins has an orientation that is substantially fixed
and substantially parallel with respect to each of the other pins of the plurality of pins; and
wherein an uneven ground surface can cause one of the plurality of pins to be
pushed upwards a greater distance than another of the plurality of pins.

Claim 8 is submitted to be allowable over Neid for similar reasons to claim 1. Claims 9-12
are dependent on claim 8 and are submitted to be allowable over Neid for at least similar reasons.

VII. Conclusion

Claims 1-4 and 8-11 and previously withdrawn claim 12 are respectfully submitted to be in
a condition for allowance. Favorable reconsideration of this application, as amended, is
respectfully requested.

Respectfully submitted,



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Fig. 2B

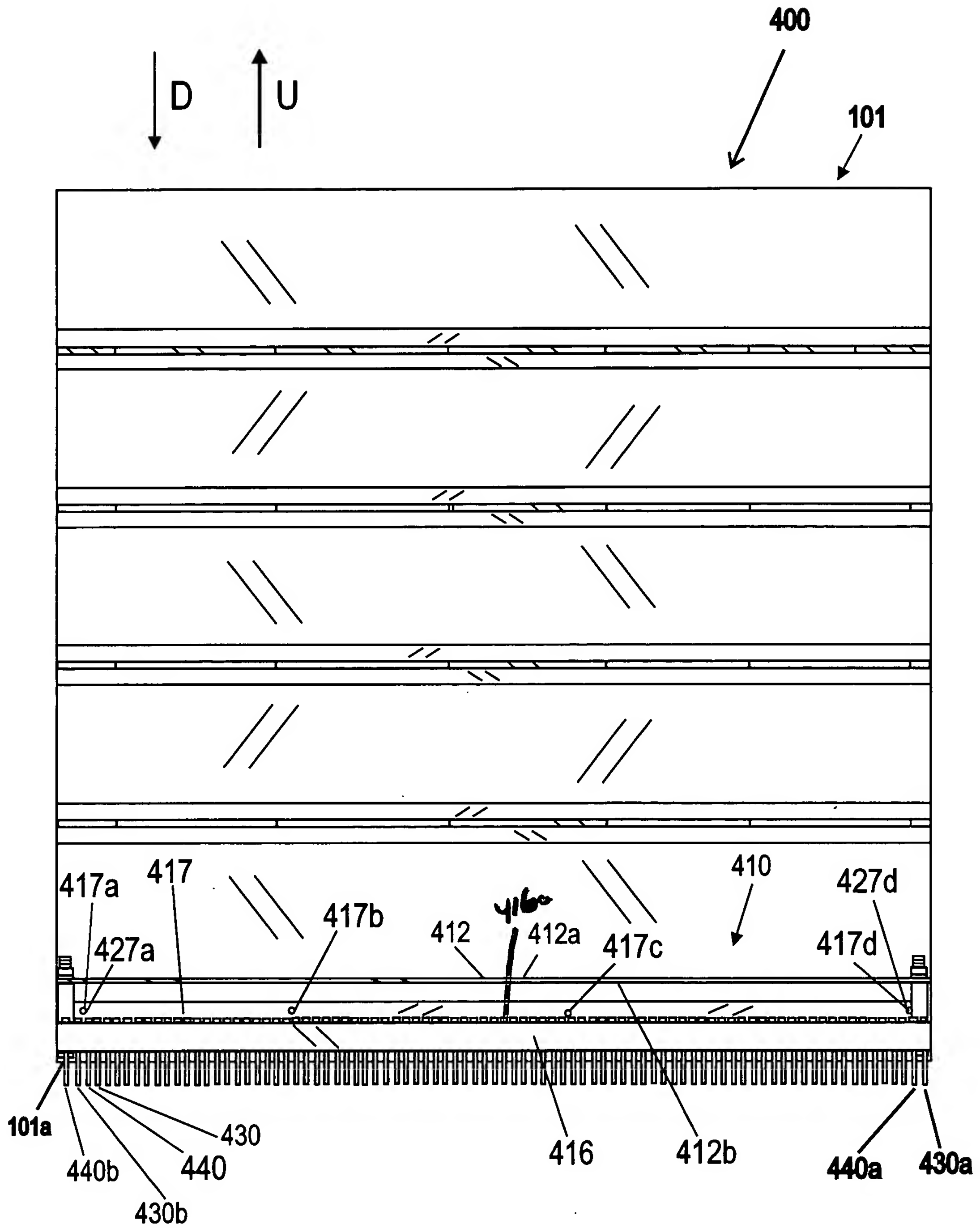


Fig. 4A

